

Board Administration and Regulatory Coordination Unit

Division 3. Air Resources Board

Chapter 1. Air Resources Board

Subchapter 1.25. Administrative Procedures--Hearings

Article 3. Administrative Hearing Procedures for Petitions for Review of Complaints

Subarticle 5. Prehearing Procedures

§ 60065.24. Prehearing Conference.

(a) In any action in which the respondent timely responds pursuant to section 60065.18, or a petition for review has been scheduled for hearing, the hearing officer may require a prehearing conference upon his or her own order or the request of any party. A request for a prehearing conference shall be in writing, addressed to the hearing officer and served on all parties.

(b) A prehearing conference shall be held no later than 30 days after an order of the hearing officer or a request by a party, but no later than 90 days from the date of respondent's filing of the response or receipt of the petition for review.

(c) The hearing officer may conduct the conference in person or by telephone.

(d) At least ten business days before a scheduled conference, each party shall file with the hearing office and serve on all other parties a prehearing conference statement which shall contain the following information:

(1) Identification of all operative pleadings by title and date signed;

(2) The party's current estimate of time necessary to try the case;

(3) The name of each witness the party may call at hearing along with a brief statement of the content of the witness's expected testimony;

(4) The identity of any witness whose testimony will be presented by affidavit pursuant to section 60065.29, if known;

(5) The name and address of each expert witness the party intends to call at hearing along with a brief statement of the opinion the expert is expected to give. The party shall also attach a copy of a current resume for each expert witness;

(6) Whether there is need for an interpreter or special accommodation at the hearing;

(7) A list of the documentary exhibits the party intends to present at hearing and a description of any physical or demonstrative evidence; and

(8) A concise statement of any legal issues which may affect the presentation of evidence or the disposition of the case.

(9) If the matter is a complaint proceeding, the complainant shall specify the proposed penalty and state the basis for that penalty. The respondent shall provide all factual information it considers relevant to the assessment of a penalty.

(e) At the prehearing conference the hearing officer may:

(1) Establish a time and place for further proceedings in the action, but no hearing on the merits of the action shall take place sooner than 30 days following the date of the prehearing conference;

(2) Attempt to simplify issues and help the parties to stipulate to facts not in dispute;

(3) Explore the necessity or desirability of amendments to the pleadings; and

(4) Discuss any other appropriate subject.

(f) After the prehearing conference, the hearing officer shall issue a prehearing order which incorporates the matters determined at the conference. This order may be issued orally if an accurate record can be made. Agreement on the simplification of issues, amendments, stipulations, or other matters may be entered on the record or may be made the subject of a written order by the hearing officer. If no matters were determined or dates set at the prehearing conference, a prehearing order is not required. The hearing officer may, to aid the efficient administration of justice, modify the prehearing order as necessary.

NOTE: Authority cited: Sections 39600, 39601, 43028 and 43031(a), Health and Safety Code. Reference: *Mathews v. Eldridge*, 424 U.S. 319 (1976); and Sections 43028 and 43031(a), Health and Safety Code.

REFERENCE